



American Association of
State Highway and
Transportation Officials

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FEDERAL COMMUNICATIONS COMMISSION
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April 2, 2001

Thomas R. Warne, President
Executive Director
Chief Administrative Officer
Utah Department of Transportation

John Horsley
Executive Director

Office of the Secretary
Federal Communications Commission
445 Twelfth Street S.W.
TW-A325
Washington D.C. 20554

Dear Sir or Madame:

Enclosed are an original and nine copies of AASHTO's comments concerning RM-10077 Petition for Rulemaking filed by the Association of Public-Safety Communications Officials-International, Inc. (APCO), seeking to modify section 90.20 © of the Commission's rules to authorize all of the certified public safety frequency coordinators (other than the Special emergency coordinator) to coordinate all of the public safety frequencies below 470 MHz.

Do not hesitate to so inform me should you have further comments or questions regarding this submittal.

Yours truly,

John Horsley
Executive Director

JH: LAM

Enclosures

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APR 2 2001

Before the

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of

Modification of Section 90.20 (c) of the
Commission's Rules to Permit Use of Any
Certified Public Safety Frequency
Coordinator for Channels below 470 MHz

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RM-10077

**Comments of the
American Association of State Highway and Transportation Officials
Special Committee on Wireless Technology**

**Richard Sheldrew,
Chairman**

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Modification of Section 90.20 (c) of the)	RM-10077
Commission's Rules to Permit Use of Any)	
Certified Public Safety Frequency)	
Coordinator for Channels below 470 MHz)	

To: Chief, Wireless Telecommunications Bureau

**COMMENTS OF
THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS**

Background Information

The American Association of State Highway and Transportation Officials (AASHTO) respectfully submits these Comments in the Petition in the above-captioned proceeding.

AASHTO is the national association of the state departments of highways and transportation in the 50 states, the District of Columbia, and Puerto Rico. Affiliate and Associate members include City, County and other transportation authorities. Its scope includes all five principal transportation modes, and its major purpose is to foster the development, operation and maintenance of an integrated national transportation system.

AASHTO, through its Special Committee on Wireless Technology (formerly Special Committee on Communications) has been active in matters related to wireless telecommunications system design, construction and operation for more than 40 years. AASHTO is a member of the Intelligent Transportation Society of America with membership in many ITSA committees including the telecommunications committee.

Comments

The Association of Public-Safety Communications Officials-International, Inc. (APCO) petitioned the Commission requesting that the service specific frequencies listed under Part 90.20 of the Commission's rules be subject to frequency coordination by APCO. APCO is currently eligible to furnish frequency coordination for frequencies, which were assigned to the Police Radio Service (prior to 1997) and shares coordination responsibilities with AASHTO, the International Municipal Signal Association/International Association of Fire Chiefs, (IMSA/IAFC), and the Forestry Conservation Communications Association, (FCCA), for the Public Safety Pool frequencies.

APCO also requests that this petition be consolidated with the pending requests of AASHTO and IMSA/IAFC for recognition to coordinate the public safety pool frequencies in the 800 MHz band. AASHTO respectfully disagrees. The 800 MHz public safety pool frequencies were never allocated to distinct classes of users. As a matter of fact, the Nevada Department of Transportation is currently constructing a multi-agency shared-use system, which utilizes 800 MHz public safety pool frequencies. It is the dissatisfaction with APCO as the sole coordinator that prompted the Nevada Department of Transportation to urge AASHTO to seek certification to the 800 MHz public safety pool. Comments filed in support of AASHTO's petition for certification to provide frequency coordination services for the 800 MHz Public Safety Private Land Mobile Radio Service frequencies included those expressing displeasure with the service furnished by APCO. Those comments included a complaint that "APCO is overrun with applications, which leads to coordination taking up to three months or more." Certifying APCO to coordinate additional spectrum would not result in improved service to applicants. The possibility of improved service, is one of the factors, which prompted the Commission to partially consolidate the Public

Safety Radio Services in 1997 by opening the Local Government Radio Service frequencies to all Public Safety Frequency Coordinators.

APCO's request to consolidate the petitions of AASHTO (DA 01-151) and IMSA/IAFC (DA 01-152) with their petition could be viewed as an attempt to delay the Commission's decision on these petitions. The justifications listed by APCO for opening the frequency bands below 470 MHz to competitive coordination include the electronic notification of frequency recommendations which has been in place for more than three years. The implementation of the Universal Licensing System has required the frequency coordinators to make modifications to existing automated frequency coordination systems and data transfer processes. These changes have at least temporarily reduced the efficiency of the data exchange process between coordinators. The current coordination system is no more integrated now than in 1998. One could question why APCO waited until now to request access to the exclusive public safety frequency pools below 470 MHz.

The proposals for the 800 MHz frequency band and the frequency bands below 470 MHz are not related, and the regulatory issues concerning them should not be consolidated.

Access to Spectrum is Not Restricted

APCO correctly acknowledges that many systems operating on frequencies below 470 MHz consist of frequencies allocated to more than one radio service. APCO by that comment seems to acknowledge that the current policy of representative frequency coordinators has not prevented non-highway agencies from obtaining licenses on these frequencies.

The Commission originally allocated frequencies for the Public Safety Radio Services by block allocation based upon the service provided by each unique system operator. This action was based upon the principle that each user group had unique needs and operational functions. The first frequency advisory groups were made up of representatives of the users for which they furnished recommendations.

The "interservice sharing" of frequencies between the users of different radio services was allowed to ensure that all applicants could receive recommendations for the "most appropriate" frequencies in cases where all frequencies in the applicant's area of operation and radio service are encumbered. In October 1997 the Commission deleted FCC Rule part 90.176 which defined the interservice sharing process. The Public Safety Communications Council, (PSCC), including APCO, recognized that some mechanism was needed to serve those entities that require frequencies from more than one radio service. The PSCC members continue to submit requests for frequencies coordinated exclusively by other PSCC members to them for review and approval. AASHTO has no record of complaints from other PSCC members concerning this process.

Representativeness

APCO was founded in 1935 as the Association of Police Communications Officers Inc. APCO is widely recognized for its support of Police agencies. APCO has changed its name many times since 1935. APCO states that a qualified broadly representative public safety frequency coordinator can address the differences between various public safety services. The record in this area shows that APCO has different standards when considering recommendations for frequencies in the Public Safety Pool which are licensed by Police agencies than those licensed to non-police agencies. A county park system located in King County Washington submitted an application for mobile radio service authorization to AASHTO for frequency coordination services on June 21, 2000. The proposed usage was for hand held radio units which operate with a transmitter output power of 2 watts. AASHTO searched the license database for the proposed area of operation and recommended the two most appropriate frequency pairs in the UHF frequency range. The licensees for the frequencies were the Washington Highway Patrol and Island County Washington. APCO objected to the frequencies licensed to the Washington Highway Patrol but did not object in behalf of Island County even though the distance to the Island County fixed station is nearly the same. AASHTO was forced to file the application with the Commission as an Arbitration Request. In support of its opposition to AASHTO's recommendation, APCO in a letter dated July 27, 2000, stated that "there is little doubt that interference will occur to the State Patrol". APCO burdened the Commission with

this action although an APCO staff engineer had advised the AFC director and deputy director that "APCO can take the position that they (King County) will cause interference (which has a low probability). The problem with the latter approach is demonstrating the interference potential of a 2-watt portable in this scenario. I think that in this situation we will have to defer to AASHTO." In a letter dated December 4, 2000, the FCC notified Mr. Clark W. Palmer, Manager, Information Technology Division, Washington State Patrol, that "Given there is no evidence that the proposed operation will interfere with the Washington state Patrol's operation, we will grant King County's application. APCO's actions delayed the granting of the license to King County until December 8, 2000. The granting of APCO's petition has the potential to unduly burden the Commission by allowing APCO to recommend additional frequencies whose users are not represented by APCO. The Commission, through Report and Order 83-737, not only required that coordinators represent the users for which they furnish service, coordinators are to provide service on a non-discriminatory basis. APCO, which promotes itself as representing all Public Safety Organizations, has a record of applying different standards to different classes of users.

APCO acknowledges that the Commission felt that retaining exclusive coordinators from the previous radio services was the best means to protect existing operations. The thought is continued to note that the Commission did not intend for specific service coordinators to "warehouse" channels for particular categories of public safety users. AASHTO agrees with that statement but notes that in at least one state, the state police agency is licensed for 22 Police Radio Service frequencies in the VHF 150-174 MHz band see call sign KA5287.

AASHTO'S representativeness is questioned by APCO. In addition to representing state highway and transportation agencies, associate membership in AASHTO is offered to city, county and other highway and transportation authorities. In many states there are no county highway agencies. The state highway or transportation department maintains all highways in those states. In those states with county highway departments, there is a close working relationship between those departments and the state highway department. AASHTO is familiar with the operations of all transportation organizations and represents non-state highway and transportation agencies in the licensing of their wireless

telecommunications systems. APCO correctly notes that AASHTO's membership consists of the chief administrative officers of the nations highway and transportation departments. The majority of APCO's members have no authority to adopt positions for their agencies of employment.

AASHTO has been assigned the responsibility of administering the 47 MHz National Geographic Allocation Plan by the FCC. This plan governs the use of 20 channels in the frequency band between 47.02 and 47.40 MHz. These frequencies are restricted for use by state highway and transportation departments. APCO has on more than one occasion submitted requests to AASHTO for the assignment of frequencies from the plan for non-state highway agency use. In AASHTO's opinion, this indicates the lack of knowledge of the plan. To us this is evidence that APCO does not represent highway agencies.

The Commission acknowledged that representativeness remains vital for the integrity of the public safety services. In PR docket 92-235 2nd R & O, the Commission stated "As we indicated above, the integrity of the public safety services must be maintained without fail...Also, preserving the jurisdiction of the individual coordinators over current spectrum, while expanding access to the Local Government frequencies, will help ensure consistency with local, regional and state public safety communications plans.

In consolidating the Industrial/Business Radio Services the Commission originally placed all frequencies in the Pool and allowed any Industrial/Business Radio Service coordinator to recommend those frequencies. In addressing petitions for reconsideration of that decision filed by the American Petroleum Institute, the Association of American Railroads, and the Utilities Telecommunications Council, renamed United Telecommunications Council, the Commission corrected the problems resulting from that decision by requiring frequencies which had been coordinated exclusively by the aforementioned coordinators prior to October 1997 must be coordinated by them. The justification for the Commission's action for the Industrial/Business Pool is even more important for the Public Safety Radio Service whose users are more directly involved in situations related to safety of life and property.

Cost of providing service

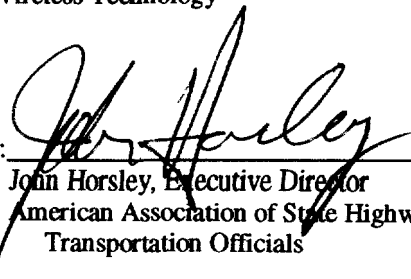
APCO purports that the granting of their petition will lower the coordination costs for applicants. APCO currently processes more applications than AASHTO due to its status as the exclusive coordinator for the Police Radio Service and the 800 MHz Public Safety frequency band. AASHTO's coordination fees for VHF 150-174 MHz and UHF 450-470 MHz frequencies are lower than APCO. There is no reason to believe that granting access to more frequencies to a non-representative coordinator like APCO will reduce coordination costs for the applicant.

Conclusion

APCO is not representative of the nation's highway and transportation agencies. The Commission correctly restricted frequencies for quasi-safety operations in the Industrial/Business Radio Service to the qualified representative frequency coordinators. The justification for the Commission's action in that matter included legitimate safety issues. That justification is even more important to the agencies charged with the development, operation and maintenance of an integrated national transportation system.

AASHTO, respectfully requests that the Commission considers the potential for degradation of services to the highway and transportation systems along with the limited potential for benefit to wireless telecommunications system operators and DENY the APCO petition for rulemaking.

Respectfully submitted,
American Association of State Highway and
Transportation Officials, Special Committee On
Wireless Technology

By: 
John Horsley, Executive Director
American Association of State Highway and
Transportation Officials

April 2, 2001